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June 7, 1996

**VIA HAND DELIVERY**

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street  
Room 222  
Washington, D.C. 20554

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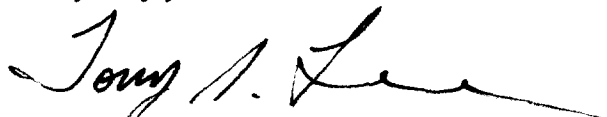
Re: In the Matter of  
Amendment to the Commission's Rules Regarding  
a Plan for Sharing the Costs of Microwave Relocation  
WT Docket No. 95-157  
RM-8643

Dear Mr. Caton:

On behalf of InterCel, Inc., please find enclosed an original and nine copies of its Reply Comments in response to comments filed in the above-captioned proceeding. Please return our file copy date stamped to us via our courier.

Should you have any questions with respect to the above matter, please do not hesitate to call.

Very truly yours,



Tony S. Lee  
Associate Attorney

Enclosures

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Before the  
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In the Matter of )  
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Amendment of the Commission's Rules )  
Regarding a Plan for Sharing the )  
Costs of Microwave Relocation )

WT Docket No. 95-157  
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To: The Commission

REPLY COMMENTS OF INTERCEL, INC.

InterCel, Inc. ("InterCel"), by its attorneys, respectfully submits its reply comments in response to the comments filed in the above-captioned proceeding. InterCel, through its subsidiaries, holds A and B block MTA licenses to provide PCS service throughout the southeastern United States.<sup>1</sup> It is currently negotiating with several microwave incumbents regarding the relocation of their microwave systems. Therefore, InterCel has a direct interest in the outcome of this proceeding.

On April 30, 1996, the Commission released a Further Notice of Proposed Rule Making ("FNPRM"), which sought comments on, among other things, whether microwave incumbents should be allowed to participate in the cost-sharing plan. Most of the comments submitted on this issue by PCS licensees and related trade organizations opposed this proposal, while comments submitted by incumbents and related trade organizations supported this proposal. AT&T Wireless Services, Inc. ("AT&T"), a PCS licensee, filed comments which advocated that incumbents be allowed to participate in the cost-sharing plan. InterCel also urges the Commission to allow incumbents to participate in the cost-sharing plan, and joins AT&T in supporting this proposal.

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<sup>1</sup> InterCel holds licenses to service three MTA's (Birmingham MTA, Station KNLF258; Jacksonville MTA, Station KNLF273; and Memphis MTA, Station KNLF255) and has been granted FCC consent for the assignment of Station KNLF222 to serve the Atlanta MTA.

In the FNPRM, the Commission tentatively concluded "that microwave incumbents that relocate themselves should be allowed to obtain reimbursement rights and collect reimbursement under the cost-sharing plan from later-entrant PCS licensees that would have interfered with the relocated link." FNPRM at ¶ 99. This would serve "the public interest because (1) it [would] distribute relocation costs more equitably among PCS licensees, and (2) it [would] promote the relocation of entire microwave systems at once . . . ." Id. at ¶ 71. InterCel agrees with this conclusion.

It has been InterCel's experience during its negotiations that incumbents desire to have their entire systems relocated at once instead of having to move their systems in a "piecemeal" fashion. Allowing incumbents to participate in the cost-sharing plan would enable them to move their systems in an efficient manner. This is particularly helpful when incumbents are dealing with PCS licensees who are either unwilling or unable to negotiate to relocate links for which they are not responsible. The cost-sharing plan would also give incumbents an incentive to move their systems in a more timely manner if they are assured of reimbursement from later-entrant PCS licensees. This would facilitate bandwidth clearing while setting the stage for rapid deployment of PCS.

Many of the commenters opposing incumbent cost-sharing were concerned with the potential for abuse of the cost-sharing plan by incumbents. AT&T believes that the potential for abuse of this process by microwave incumbents is limited. Comments of AT&T, at 6. InterCel also agrees with AT&T, and proposes safeguard against unreasonable relocation costs in incumbent cost-sharing by treating incumbents the same as other PCS licensees who seek cost-sharing from later-entrant PCS licensees. This would impose a cap of \$250,000 per link, with an additional \$150,000 if a new or modified tower is required. In addition, to facilitate expeditious clearing of the 2 GHz band, InterCel

proposes that the Commission limit incumbent cost-sharing as well as the availability of tax certificates<sup>2</sup> to relocations occurring during the voluntary and mandatory negotiation periods. Such limits would provide additional incentive for incumbents to relocate their systems quickly.

### CONCLUSION

For the foregoing reasons, InterCel, Inc., urges the Commission to adopt the proposal to permit microwave incumbents to participate in the cost-sharing plan, and to adopt InterCel, Inc.'s proposal to modify the cost-sharing plan.

Respectfully submitted,

INTERCEL, INC.

By: Michael K. Kurtis / TSL

Michael K. Kurtis

Tony S. Lee

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Its Attorneys

June 7, 1996

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<sup>2</sup> As the Commission is aware, at the time of the original A and B block PCS auctions, Commission Rules only allowed for the issuance of tax certificates to incumbents who relocated during the voluntary negotiation period. Third Report and Order and Memorandum Opinion and Order, ET Docket No. 92-9, 8 FCC Rcd 6589 (1993). The purpose of changing these practices was to ensure that incumbents who were not asked for early relocation were not disadvantaged. However, the net result of this change has been to substantially reduce the incentive for early incumbent microwave relocation and to disadvantage the PCS licensee in the negotiation process. Incumbents received the tax certificates regardless of when relocation occurred and therefore were not motivated to relocate during the voluntary negotiation period.

CERTIFICATE OF SERVICE

I, Olivia D. Hill, a secretary in the law firm of Kurtis & Associates, P.C., do hereby certify that on this 7th day of June, 1996, a true and correct copy of the foregoing "Reply Comments of InterCel, Inc." was sent by hand delivery to the following:

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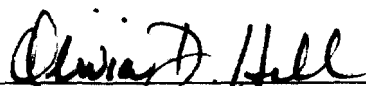
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